

JUL 11 2002

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

COMPETITION POLICY DIVISION  
WIRELINE COMPETITION BUREAU

*Michelle Gray*

Application of )  
SureWest TeleVideo Company )  
for Section 214 )  
SPECIAL TEMPORARY AUTHORITY )  
)

To: International Bureau  
Wireline Competition Bureau

APPLICATION  
Sor  
SPECIAL TEMPORARY AUTHORITY

On June 21, 2002, SureWest TeleVideo (SureWest) filed a Joint Application for Transfer of Control of Section 214 Domestic and International Authority held by Western Integrated Networks of California Operating L.L.C. (WINfirst).<sup>1</sup> Due to exigent circumstances and in order to avoid the potential for loss of telecommunications services by thousands of end-users in areas of Sacramento, California, SureWest respectfully requests Special Temporary Authority to operate under the Domestic and International Section 214 Authority issued to WINfirst. SureWest seeks Special Temporary authority for a period not to exceed the earlier of 180 days or the Commission's approval of the Joint Application for Transfer of Control. SureWest seeks Special Temporary Authority pursuant to Section 63.25 of the Commission's Rules for the International Section 214 Authority and pursuant to Section 0.91(a) and 0.91(f) of the Commission's Rules for the Domestic Section 214 Authority.

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<sup>1</sup> A copy of the Joint Application is appended hereto as Exhibit A. The Joint Application was assigned IBFS file number IB2002000945 and has not yet appeared on Public Notice.

### SureWest Has a Pending Application Before the F.C.C.

On June 21, 2002, SureWest filed a Joint Application for Transfer of Control of Section 214

- Domestic and International Authority held by WINfirst. WINfirst, a debtor under the protection of bankruptcy, currently provides competitive local exchange telecommunications service to thousands of customers in certain portions of Sacramento, California. SureWest's pending joint application seeks authority to acquire the assets of the bankrupt company. The operations of WINfirst do not geographically overlap with the two exchanges where SureWest's affiliate, Roseville Telephone Company, is the incumbent local exchange carrier. SureWest filed its joint application in compliance with the Commission's revised determination that asset acquisitions should be treated as transfers of control.<sup>2</sup> The joint application is presumptively subject to streamlined treatment as there are neither market share nor competition issues raised.

### An Impending Shutdown Threatens the Bankrupt Company

The parties to the bankruptcy proceeding have recognized the urgency which faces WINfirst due to its ongoing operating expenses and limited cash reserves. Attached hereto as Exhibit B is the bankruptcy court order issued this day, July 10, 2002, mandating an expedited closing for the bankruptcy transaction. As today's court order indicates, the court adopted an expedited procedural schedule. In order to protect WINfirst's subscribers and creditors, the transaction is anticipated to close on July 12, 2002.

The liquid assets available to WINfirst are almost completely exhausted. The expedited closing will protect creditors by allowing SureWest to resuscitate WINfirst operations at the earliest

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<sup>2</sup> *In the Matter of Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517 (2002) at para. 59.

moment permitted under the bankruptcy code. The parties to the bankruptcy proceeding fully understand the urgency of this situation and all parties, including the bankruptcy court: have accommodated these emergency needs.

Without Special Temporary Authority Residential Subscribers Risk Losing Service

SureWest respectfully requests Special Temporary Authority in light of the circumstances facing thousands of telecommunications subscribers as well as SureWest and WINfirst. Notably and in contrast to the many commercial CLEC subscribers, WINfirst subscribers are mainly residential subscribers to competitive local exchange carrier services. It is anticipated that in the likely instance of bankruptcy court approval of the SureWest-WINfirst transaction, the transaction will occur in less than two days from the court's approval. In the absence of Special Temporary Authority, the bankruptcy court's approval may be rendered a nullity as SureWest would not have authority to operate and provide services to customers acquired through the bankruptcy proceeding. Moreover, in the absence of such authority, thousands of current WINfirst residential and other subscribers risk losing their service. In order to protect the thousands of current WINfirst local exchange service subscribers from potentially losing service, SureWest seeks Special Temporary Authority to operate pursuant to WINfirst's International and Domestic Section 214 authority.

Grant of Special Temporary Authority serves the public interest by protecting thousands of current WINfirst residential subscribers from the risk of losing access to the public switched telephone network and associated public safety, health, welfare and security services provided through such network. The Special Temporary Authority would provide the Commission adequate time to review the pending Joint Application under its standard procedures without invoking the newly established waiver requirements. Moreover, this Special Temporary Authority would be

limited in time as required by the Commission's Rules and would be subject to the ultimate disposition of the Joint Application. Grant of this Special Temporary Authority will promote and protect the public interest while maintaining administrative efficiency through the inherent limitation of a Special Temporary Authority

Conclusion

WHEREFORE, good cause having been shown, SureWest respectfully requests that the Commission issue Special Temporary Authority as described above. Neither SureWest nor any party to the instant application is subject to denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988. Correspondence or communications regarding this transaction may be directed to counsel for SureWest.

Respectfully submitted,  
SUREWEST TELEVIDEO

/s/ Raymond J. Quianzon  
Paul J. Feldman, Esquire  
Raymond J. Quianzon, Esquire  
Its Attorneys

July 10, 2002

Fletcher, Heald & Hildreth, P.L.C.  
Eleventh Floor  
1300 North Seventeenth Street  
Arlington, Virginia 22209  
Telephone Number (703) 812-0400

**EXHIBIT A**  
**TO**  
**Application for STA**  
**(Copy of Joint Application)**

INTERNATIONAL SECTION 214 APPLICATION  
FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:

Joint Application for Transfer of Control of International and Domestic Section 214 Authorities

. Applicant

<b>Name:</b>	SureWest TeleVideo	<b>Phone Number:</b>	703-812-0403
<b>DBA Name:</b>		<b>Fax Number:</b>	703-812-0486
<b>Street:</b>	, Eleventh Floor 1300 North Seventeenth Street	<b>E-Mail:</b>	Feldman@fhhlaw.com
<b>City:</b>	Arlington	<b>State:</b>	VA
<b>Country:</b>	USA	<b>Zipcode:</b>	22209 -
<b>Attention:</b>	Mr Paul J Feldman Esq		

**Contact**

<b>Name:</b>	Paul J. Feldman, Esq.	<b>Phone Number:</b>	7038120403
<b>Company:</b>	Fletcher, Heald & Hildreth, P.L.C.	<b>Fax Number:</b>	7038120486
<b>Street:</b>	Eleventh Floor	<b>E-Mail:</b>	Feldman@fhhlaw.com
	1300 North Seventeenth Street		
<b>City:</b>	Arlington	<b>State:</b>	VA
<b>Country:</b>	USA	<b>Zipcode:</b>	22209 –
<b>Contact Title:</b>	Counsel	<b>Relationship:</b>	Legal Counsel

**3. Place of Incorporation of Applicant** California**4. Other Company(ies) and Place(s) of Incorporation**  
SureWest Communications, California and *its* subsidiaries and affiliates

<p>Service Type(s) (check all that apply)</p> <p><input type="checkbox"/> Global or Limited Global Facilities–Based Authority (Section 63.18(e)(1))</p> <p><input type="checkbox"/> Global or Limited Global Resale Authority (Section 63.18(e)(2))</p> <p><input type="checkbox"/> Individual Facilities–Based Service (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Individual Switched Resale Service (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Individual Facilities–Based and Resale Service (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Switched Services over Private Lines (ISR) (Section 63.16 and/or 63.18 (e)(4))</p> <p><input type="checkbox"/> Inmarsat and Mobile Satellite Service (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Overseas Cable Construction (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Individual Non–Interconnected Private Line Resale Service (Section 63.18(e)(4))</p> <p><input type="checkbox"/> Other (Section 63.18(e)(4))</p>
<p>a. Is a fee submitted with this application?</p> <p><input checked="" type="radio"/> If Yes, complete <i>and attach</i> FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).</p> <p><input type="radio"/> Governmental Entity    <input checked="" type="radio"/> Noncommercial educational licensee</p> <p><input type="radio"/> Other (please explain):</p>
<p>b. Fee Classification      CUT – Section 214 Authority</p>
<p>Destination Country(ies) (e.g., "Country X", "All international points", "All international points except Country X and Country Y" or Countries X, Y, and Z only".)      All international points</p>



. *Caption* (description of authority requested, e.g., Application for Authority to Provide International Facilities–Based and Resold Services to all International Points Except Country X)

(If the complete description does not appear in this **box**, please go to the end of the form to view it in its entirety.)

**Joint Application of SureWest TeleVideo to transfer control of  
International and Domestic Section 214 Authority from Western  
Integrated Networks of California Operating LLC**

9. Does the applicant request streamlined processing pursuant to 47 C.F.R. Section 63.12? If yes, include in Attachment I a statement of how the application qualifies for streamlined processing.



Yes



No

10. If applying for authority to provide switched services over private lines pursuant to Section 63.16, provide the required showing in Attachment I.

Applicant certifies that its responses to questions 11 through 17 are true:

11. If the applicant is a foreign carrier, or is affiliated (as defined in 47 C.F.R. Section 63.09(e)) with a foreign carrier, provide in Attachment I the information and certifications required by Section 63.18(i) through (m).

12. Does the applicant seek authority to provide service to any destination described in paragraphs (1) through (4) of Section 63.18(j)? If yes, list those destinations in Attachment I as a response to question 12.



Yes



No

13. Does the applicant seek authority to provide service to any destinations other than those listed in response to question 12 where it has an affiliation with a foreign carrier? If yes, list those destinations in Attachment I as a response to question 13.

☐ Yes

☒ No

14. [Section 63.18(h)] In Attachment 2, provide the name, address, citizenship and principal business of the applicant's ten percent or greater direct and indirect shareholders or other equity holders, and identify any interlocking directorates.

15. In Attachment I, respond to paragraphs (d), (e)(4) and (g) of Section 63.18.

16. By checking Yes, the undersigned certifies that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.

☒ Yes

☐ No

17. By checking Yes, the applicant certifies that it has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future.

☒ Yes

☐ No

**CERTIFICATION**

18. Typed Name of Person Signing Greg R. Gierczak	19. Title of Person Signing Executive Director – External Relations						
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title <b>47</b> , Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title <b>47</b> , Section 503).							
<table border="1"><tr><td>20. I:</td><td>1</td><td>2:</td><td>2</td><td>3:</td><td>3</td></tr></table>		20. I:	1	2:	2	3:	3
20. I:	1	2:	2	3:	3		

Before the  
COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
 )  
Joint Application under Section 214 of the )  
Communications Act of 1934, as amended, )  
by SureWest TeleVideo Company )  
for Transfer of Control of Section 214 )  
Domestic and International Authorizations )  
of Western Integrated Networks of )  
California Operating L.L.C. )

## International Attachment 1

Statement of how the Application Qualifies for Streamlined Processing:

Applicant qualifies for streamlined processing as it is:

63.12(c)(1) not affiliated with a foreign carrier in a destination market;

63.12(c)(2) not affiliated with a dominant U.S. carrier whose international switched or private line services the applicant seeks authority to resell; and

63.12(c)(3) not providing service to a country for which the Commission has not previously authorized the provision of switched services over private lines.

Response to paragraphs (d), (e)(4) and (g) of Section 63.18:

63.18(d) - SureWest TeleVideo has not previously received authority under Section 214 of the Act. However, SureWest TeleVideo's affiliate, Roseville Telephone Company, currently provides domestic telecommunications services as an incumbent and competitive local exchange carrier. SureWest TeleVideo's affiliate, Roseville Long Distance Company, has received Section 214 authorization for Global Resale services (ITC-97-069).

63.18(e)(4) - SureWest TeleVideo's application is filed under Section 63.18(e)(3) and thus subsection 63.18(e)(4) is not applicable. Applicant is not applying for services not covered in Sections (e)(1) through (e)(3).

63.18(g) - SureWest TeleVideo's application is filed under Section 63.18(e)(3) and thus section 63.18(g) is not applicable. Applicant is not applying for facilities-based authority.

Before the  
COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
 )  
Joint Application under Section 214 of the )  
Communications Act of 1934, as amended, )  
by SureWest TeleVideo Company )  
for Transfer of Control of Section 214 )  
Domestic and International Authorizations )  
of Western Integrated Networks of )  
California Operating L.L.C. )

## International Attachment 2

Surewest TeleVideo, the Applicant, is wholly owned by SureWest Communications (“SureWest”), a publicly traded company. The only entity controlling at least ten percent (10%) of SureWest is the SureWest Employee Benefit Plan.

The address of the SureWest Employee Benefit Plan is 211 Lincoln Street, Roseville, California, 95678. The SureWest Employee Benefit Plan is an employee benefit plan established under the rules and regulations of the State of California.

SureWest TeleVideo has no interlocking directorates or any other corporate relationships with any foreign carriers.

Before the  
COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
 )  
Join Application under Section 214 of the )  
Communications Act of 1934, as amended, )  
by SureWest TeleVideo Company )  
for Transfer of Control of Section 214 )  
Domestic and International Authority )  
of Western Integrated Networks of )  
California Operating L.L.C. )

APPLICATION  
(Domestic attachment to joint application)

Pursuant to Section 63.04 of the Commission's Rules, SureWest TeleVideo (SureWest) hereby applies under Section 214 of the Communications Act of 1934, as amended, for authority to acquire the assets of Western Integrated Networks of California Operating L.L.C. (WINfirst) through an asset acquisition. The asset acquisition has been submitted for approval by the United States Bankruptcy Court for the District of Colorado. In support of this Application, Surewest submits:

- (1) the acquiring entity is: SureWest TeleVideo  
Post Office Box 969  
Roseville, California 95678  
Telephone number (916) 786 - 1440
- the target entity is: Western Integrated Networks of California Operating LLC  
Suite 2-800  
Colorado Center - Tower Two  
2000 South Colorado Boulevard  
Denver, Colorado 80222  
Telephone Number (303) 221-8730;
- (2) SureWest is organized under the laws of the State of California;

- (3) correspondence regarding this application may be directed to:

Paul J. Feldman, Esquire  
Counsel to SureWest  
Fletcher, Heald & Hildreth, P.L.C.  
Eleventh Floor  
1300 North Seventeenth Street  
Arlington, Virginia 22209  
Telephone Number (703) 812-0400;

- (4) Surewest TeleVideo, the Applicant, is wholly owned by SureWest Communications, a publicly traded company. The only entity controlling at least ten percent (10%) of SureWest is the SureWest Employee Benefit Plan;
- (5) Neither SureWest nor any party to the instant application is subject to denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988;
- (6) This transaction involves the acquisition of the WINfirst assets and customer base through an asset purchase agreement with SureWest and its parent company and subsequent operations by SureWest;
- (7) SureWest TeleVideo currently provides no domestic telecommunications services, but its affiliate Roseville Telephone Company provides incumbent local exchange services in the Roseville and Citrus Heights, California telephone exchange areas. Roseville Telephone Company currently provides domestic telecommunications services as a competitive local exchange carrier in portions of Placer County and portions of the Sacramento County telephone exchange areas of California. SureWest TeleVideo affiliate Roseville Long Distance Company provides domestic telecommunications services as a non-dominant reseller of interexchange service nationwide;

WINfirst and its affiliates currently provide domestic telecommunications services as a competitive local exchange carrier in the telephone exchange areas of portions of Sacramento County, California. WINfirst and its affiliates provide domestic telecommunications services as a non-dominant reseller of interexchange service nationwide;

- (8) This transaction is presumptively streamlined pursuant to 63.03(b)(2)(ii). SureWest will have a market share in the interstate, interexchange market of less than ten percent (10%), would provide exchange access services through the acquisition exclusively in geographic areas served by a dominant local exchange carrier that is not a **party** to this transaction and
- a) SureWest, by virtue of its affiliation with Roseville Telephone Company, is an incumbent carrier but
  - b) WINfirst is a non-dominant carrier that provides services exclusively outside the geographic areas where SureWest, through its affiliate Roseville Telephone Company, is incumbent;
- (9) The only other Commission application related to this transaction is a jointly filed application to transfer control of international Section 214 authority:
- (10) SureWest seeks special consideration of this application as WINfirst, a Chapter 11 Bankrupt Debtor, faces imminent business failure and disconnection of services to customers. In the event that the Bankruptcy Court requires action prior to the 30 day streamlined period for this Joint Application, SureWest will seek the appropriate Special Temporary Authority from the Commission;
- (11) SureWest will be seeking a waiver of the Commission's rules regarding Changing Long Distance Service, 47 C.F.R. §§ 64.1100 *et seq.* upon approval of the Bankruptcy Court; and
- (12) Grant of this application will serve the public interest by ensuring continued and uninterrupted access to the Public Switched Telephone Network by customers who are currently subscribing to services from WINfirst.



WHEREFORE, good cause having been show, SureWest TeleVideo. by counsel respectfully requests authority to transfer control of WINfirst's assets as noted above.

Respectfully submitted,

/s/ Raymond J. Quianzon

Paul J. Feldman, Esquire

Raymond J. Quianzon, Esquire

Counsel to SureWest TeleVideo

June 21, 2002

Fletcher, Heald & Hildreth, P.L.C.  
Eleventh Floor  
1300 North Seventeenth Street  
Arlington, Virginia 22209  
Telephone Number (703) 812-0400

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EXHIBIT B  
TO  
Application for **STA**  
(Copy of Court Order)

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	Case No. <b>02-13043 EEB</b>
WESTERN INTEGRATED	)	
NETWORKS, LLC, <i>et al</i> <sup>1</sup> .	)	Jointly Administered
EIN 84-1518702	)	
	)	Chapter 11
Debtors.	)	

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**ORDER GRANTING DEBTORS' EXPEDITED MOTION FOR ORDER  
AUTHORIZING (A) SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS  
FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND  
ENCUMBRANCES PURSUANT TO OVERBID AND AUCTION PROCEDURES,  
INCLUDING BREAK UP FEE, AND (B) ASSUMPTION AND ASSIGNMENT OF  
CERTAIN PREPETITION AGREEMENTS  
(SUREWEST)**

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THIS MATTER comes before the Court on Debtors' Expedited Motion for an Order Authorizing (A) Sale **of** Substantially all of Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances Pursuant to Overbid and Auction Procedures Including Break-Up Fee, and (B) Assumption and Assignment of Certain Prepetition Agreements (the "Sale Motion") and the Notice Pursuant to Local Bankruptcy Rule **202** of the Sale Motion (the "Sale Notice"). **The** Court has reviewed the Sale Motion and the Sale Notice, and based upon pleadings filed with this Court and the records of hearings held before this Court with respect to the proposed sale, including without limitation, the hearings held on July **5** and July 10, **2002**, the Court hereby FINDS, DETERMINES, **CONCLUDES AND ORDERS THAT:**

1. The Court has subject matter jurisdiction over this matter pursuant to **28** U.S.C § **1334**, 28 U.S.C § 157 and 11 U.S.C § 363. The findings and conclusions set forth herein constitute the Court's findings **of** fact and conclusions of law pursuant to Fed. R. Bankr. P. **7052**, made applicable to this proceeding pursuant to Fed. R. Bankr. P. **9014**.

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<sup>1</sup> The Debtors are: (1) Western Integrated Networks, LLC; (2) Cablexpress, Inc.; (3) Western Integrated Networks Holdings, LLC; **(4)** Western Integrated Networks of Colorado Operating LLC; **(5)** Western Integrated Networks of California Operating LLC; **(6)** Western Integrated Networks of Sacramento Purchasing Company, LLC; (7) WIN of Texas GP LLC; (8) Western Integrated Networks of Texas Operating L.P.; (9) Western Integrated Networks of Los Angeles Operating LLC, (10) Western Integrated Networks of Colorado Purchasing Company, LLC, a Delaware limited liability company; and (11) Western Integrated Networks **of** Dallas Purchasing Company, L.P., **a** Delaware limited partnership.

2. To the extent any of the following findings of fact constitute conclusions of law, they are adopted **as** such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted ~~as~~ such.

3. Under the exigent circumstances of this case, and no party having objected to the ~~sale~~ procedures, the Sale Notice provided reasonable and adequate notice of the **Sale Motion**, ~~the~~ deadline for objecting to the Sale Motion, the deadline for, and procedures governing, bids, and of the hearing on the Sale Motion **as** required by Fed. R. Bankr. **P. 2002(a)(2), (c)(1), (d)(3), 6004 and 9006(c), L.B.R. 202** and other applicable law and procedures. A reasonable opportunity has ~~been~~ afforded interested parties to **make** a higher and better offer for the purchase of substantially all of the Debtors' assets.

4. The Sale Motion is granted, all objections having been resolved or overruled.

5. The Asset Purchase Agreement (the "APA") dated June 19, **2002** between Debtors and SureWest Communications ("SureWest"), is hereby authorized and approved, and each ~~of~~ the Debtors is hereby authorized to take all actions and execute all documents and instruments that the Debtors and SureWest ~~deem~~ necessary or appropriate to implement and effectuate the APA.

6. Pursuant to the APA, Debtors are authorized to sell, and convey ~~free~~ and clear of all liens, claims, ~~interests~~ and encumbrances, all ~~of~~ Debtors' right, title and interest in substantially all of their tangible and intangible ~~assets~~ as described in ~~or~~ pursuant to the APA (the "Assets") **as** assets to be conveyed to SureWest. All valid liens, claims, interests and encumbrances, whether known or unknown, including without limitation, ~~secured~~ claims ~~of~~ creditors, vendors, employees, or lessors ("Lien Claims") shall attach ~~to~~ the proceeds of the sale of the Assets pursuant to 11 U.S.C. § 363(~~f~~) to the same extent, validity and priority as the Lien Claims attach to the Assets and all rights to such Lien claims (including the rights to contest the value of the individual assets and/or the allocation of values between the assets to which the Lien Claims attach) and any objections ~~or~~ defenses thereto, shall ~~be~~ preserved. Except as otherwise provided in the APA, SureWest shall not be liable in any way (as a successor or otherwise) for any such liens, claims, interests and encumbrances, be they known, unknown, contingent, unliquidated, or disputed or for assets not to be acquired. Neither this Order nor any provision of the APA shall affect any party's rights to a ~~determination~~ of asset value allocations among the Debtors. Any allocation of asset values made by the Buyer and Seller for tax or any other purposes shall not have any collateral estoppel or ~~res~~ judicata effects upon any party or the Court in any subsequent proceedings.

7. Exigent circumstances and sound business reasons exist for the prompt sale of the Debtors' Assets. Entry into the APA and consummation of the transactions contemplated thereby constitute the exercise by the Debtors of sound business judgment and such acts are in the best interest of the Debtors, their estates, and creditors.

8. The APA represents the highest and best offer received for the Assets.
9. The Assets to be sold specifically do not include:
- (i) all causes of action and rights **of** recovery for avoidance actions of Debtors under Sections **547-553** of the Bankruptcy Code;
  - (ii) tax refunds and tax attributes;
  - (iii) all cash and cash equivalents (including non-marketable securities and short term **investments**);
  - (iv) the documents relating solely to the organization, **maintenance** and existence of Debtors as corporations, partnerships or limited liability companies, as the case may be;
  - (v) any Executory Contracts that are not Assumed Executory Contracts, including any **Contingent** Executory Contracts that do not become Assumed Executory Contracts;
  - (vi) any rights Of Debtors under the **APA**;
  - (vii) professional fee retainers held by **Jessop & Company, P.C., Q Consulting LLC, Dow, Lohnes & Albertson** and other professionals approved by the Bankruptcy Court, including the counsel and accountants for the Unsecured Creditors Committee;
  - (viii) receivables owed by Sacramento Municipal Utility District as Of the Closing Date;
  - (ix) deposit money arising from completed work as of the Closing Date held by Pacific Bell; and
  - (x) certain other assets identified pursuant to the APA, but without affecting the purchase price.

10. Debtors are authorized and, at the closing of the sale to SureWest, shall assume and assign certain **prepetition** executory contracts listed on Exhibit B, as amended, to the **APA** (and attached hereto), including but not limited to the executory contract(s) with **PeopleSoft**, provided that such contract(s) with **PeopleSoft** can only be assumed upon payment **of** \$96,010.02 at closing **of** the sale to **SureWest** as cure and assigned only to **SureWest** and the executory contract(s) between Debtors and **CEON** can only be assumed and assigned upon payment of \$77,413.60 at closing of **the** sale to **SureWest** as cure and an amendment to such **agreement(s)** acceptable to **CEON** and **SureWest**. The non-debtor parties to the contracts listed on Exhibit B are referred to as the "Contracting Parties". Further, the attached Stipulation Between Debtors and Avaya, Inc., Regarding Rejection Of Executory Contract And Transfer Of Certain Intellectual Property Rights In Connection With The Pending Asset Sale is approved.

In the event that the sale to SureWest does not close the agreements listed in Exhibits B and to the APA shall be deemed to not yet be assumed or assigned. By operation of this Order granting the Sale Motion and upon notice to the Contracting Parties of the assignment of such contracts such parties shall be deemed to have given consent to assignment of their contracts to SureWest, provided that proper notice of the Sale Motion was given to such parties and they have not timely objected. Such Contracting Parties are forever barred and enjoined from raising or asserting against SureWest any assignment fee, default or breach thereunder, or any claim for pecuniary loss, or condition to assignment, arising under or related to such contracts which arose prior to any assignment to SureWest pursuant to the APA and this Order. The Stipulation between Debtors and Accenture LLP Resolving Objections to the Pending Sale ("Accenture Stipulation") is approved except that releases and claims allowances provided in paragraphs 2, 7 and 8 therein are subject to further order of the Court. The Master Consulting Services Agreement referenced in the Limited Objection of Accenture LLP to the Motion is hereby assumed and assigned to SureWest as modified pursuant to the Accenture Stipulation.

11. An Escrow Agent is authorized to hold the sum of one million two hundred thousand dollars (\$1,200,000) in an account designated as a "Holdback Account" for a period of one hundred eighty (180) days following the Closing and distribute the Holdback Account pursuant to the terms of the APA.

12. The transactions undertaken pursuant to the APA have been undertaken at arm's length, without collusion by the parties and were proposed by SureWest in good faith within the meaning of 11 U.S.C. § 363(m) and represent the highest and best offer for the Assets.

13. SureWest is a good faith purchaser under 11 U.S.C § 363(m) and is hereby granted the protections afforded to a good faith purchaser under 11 U.S.C § 363(m).

14. The Assets are being sold pursuant to Section 363(b) and (f) of the Bankruptcy Code free and clear of all liens, claims and encumbrances.

15. Notwithstanding Fed. R. Bankr. P. 6004(g), this Order shall be effective and enforceable immediately upon entry, and its provisions shall be self-executing. This Order shall take effect immediately and shall not be automatically stayed pursuant to F.R.B.P.7062 or otherwise.

16. All objections to the entry of this Order not otherwise settled or withdrawn are hereby overruled.

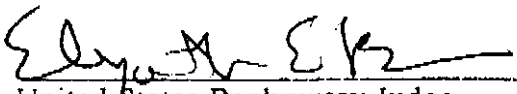
17. The filing of the Motion and the entry of this Order shall be deemed to have satisfied any requirement under F.R.B.P. 6004(f)(1) that the Debtors file an itemized statement of property sold, name of purchaser and price received with respect to the sale of Assets described herein.

18. The provisions of this Order are nonseverable and mutually dependent.

19. The provisions of this Order and any action taken pursuant hereto shall survive the entry of any other order which may be entered (i) confirming any plan of reorganization; (ii) converting this case from Chapter 11 to Chapter 7; or (iii) dismissing this case; and the terms and provisions **of** this Order as well as the transactions effected pursuant hereto shall continue in full force and effect notwithstanding the **entry** of such **other** order.

20. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order and the APA.

Dated: July 10<sup>th</sup>, 2002

  
United States Bankruptcy Judge